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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,562	07/08/2003	Edward B. Standish	59057	9008

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OTTAWA, KS 66067

EXAMINER
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LEWIS, RALPH A

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/615,562

Applicant(s)

STANDISH

Examiner

Ralph A. Lewis

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11-20 is/are rejected.
- 7) ☒ Claim(s) 8-10 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>08 July 2003</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

### **Rejections based on Prior Art**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 11 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kratsch et al (US 5,478,350).

Kratsch et al disclose a medical forceps instrument capable of extracting a tooth comprised of a handle 22 a clamp assembly 20 having jaw members 58 and 59 and a cable 16 for moving the clamp assembly relative to the handle. In regard to claim 2, note clamp links 104. In regard to claim 4, note trigger 48. In regard to claim 5, note pinion 52 and rack 38. In regard to claim 14, note Figures 15 and 16 of Kratsch et al showing the open position and the pivoted/retracted position.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caruso (US 2,027,470) in view of Kratsch et al (US 5,478,350) and Zvenyatsky et al (US 5,766,205).

Caruso discloses a tooth extracting device having a handle 2 and a clamp assembly 56 for clamping the tooth to be extracted. Caruso discloses a "rod" 30 that is attached to the clamp assembly and the handle 2 for moving the clamp assembly relative to the handle, rather than the claimed "cable." The rod 30 of Caruso is in tension when the trigger 12 is pulled as is applicant cable 15. The ordinarily skilled artisan would have readily recognized that the rod member 30 of Caruso could have obviously been replaced with a prior art cable that would perform the tension function, particularly in view of Kratsch et al and Zvenyatsky et al who teach for similar medical forceps the use of a cable (16, Kratsch et al and 58, Zvenyatsky et al). Merely substituting the well known prior art cable for the Caruso rod 30 would have been obvious to one of ordinary skill in the art as an obvious substitution of known equivalent structures. In regard to claim 2, note links 56. In regard to claim 5, note pinion 14, 15 and rack 18. In regard to claim 6, note carrier block 44 which slides relative to the handle. In regard to claim 12, note supports 65 for engaging neighboring teeth on either side of the tooth being extracted.

### **Allowable Subject Matter**

Claims 8-10 and 21 are objected to as being dependent on rejected base claims, but would be allowable if rewritten in independent form to include all of the limitations of the claims from which they depend.

### **Prior Art**


Applicant's information disclosure statement of July 08, 2003 has been considered and an initialed copy enclosed herewith.

Polder, Jr. (US 4,669,769), Snead (US 4,669,979), Knoepfler (US 5,209,747) and Lichtman (US 5,620,459) are made of record.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (571) 272-4720.

R.Lewis  
October 1, 2005

  
Ralph A. Lewis  
Primary Examiner  
Ac 3732